

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

2003 DEC -8 A 11:09

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA

VS.

BRIAN J. STUCKE

CR2 03 207

No. _____

JUDGE HOLSCHUH

PLEA AGREEMENT

Plaintiff United States of America and Defendant BRIAN J. STUCKE (collectively known as the "Parties") hereby enter into the following Plea Agreement ("Agreement") pursuant to Rule 11(e) of the Federal Rules of Criminal Procedure:

1. Defendant BRIAN J. STUCKE will enter a plea of guilty to Count 1 of the Information filed herein which charges him with conspiracy to use interstate commerce for the purpose of fraud or deceit in the sale of securities, in violation of 18 U.S.C. § 371.

2. Defendant BRIAN J. STUCKE understands the maximum penalty that may be imposed pursuant to a plea of guilty to Count 1 of the Information is a term of imprisonment for five (5) years, a fine in the amount of \$250,000, and three (3) years supervised release.

3. Prior to or at the time of sentencing, the Defendant will pay a special assessment of \$100.00, as required in 18 U.S.C. §3013, to the United States District Court, at the Clerk's Office, 85 Marconi Boulevard, Columbus, Ohio 43215. Defendant will furnish to the government a receipt or other evidence of payment by the time of sentencing.

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN COURT OFFICE	
FILED	12803
BY	KENNETH J. MURPHY, CLERK
	Deputy Clerk
DATE:	12803

4. Defendant BRIAN J. STUCKE agrees to testify truthfully and completely concerning all matters pertaining to the Information filed herein and to any and all other matters involving the conspiracy in which he may have been involved or as to which he may have knowledge. Defendant further agrees to continue his cooperation with the United States by providing complete statements to authorities of the United States, including the Securities and Exchange Commission ("SEC"), concerning such matters prior to the entry of his guilty plea to Count 1 of the Information pursuant to this Agreement. Defendant agrees to continue to submit to supplemental debriefings on such matters whenever requested by authorities of the United States, including the SEC, whether before or after his plea is entered. Defendant further agrees to testify truthfully and completely as to all related activities whenever required by the United States, including the SEC, or in response to any valid court process.

Pursuant to §1B1.8 of the United States Sentencing Guidelines, the government agrees that any self-incriminating information so provided will not be used against the Defendant in determining the applicable guideline range for sentencing, or as a basis for upward departure from the guideline range.

5. By virtue of the defendant pleading guilty to Count 1 of the Information, the defendant understands that he is not a prevailing party as defined by 18 U.S.C. §3006A (statutory note captioned "Attorney Fees and Litigation Expenses to Defense") and hereby expressly waives his right to sue the United States.

6. Defendant is aware that the sentence will be imposed in accordance with the United States Sentencing Guidelines and Policy Statements. The defendant is further aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set forth

for the offense to which the defendant pleads guilty. The defendant is aware that the Court has not yet determined a sentence. The defendant is also aware that any estimate of the probable sentencing range under the United States Sentencing Guidelines that the defendant may have received from the defendant's counsel, the United States, or the probation office, is a prediction, not a promise, and is not binding on the United States, the probation office, or the Court. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw the guilty plea based upon the actual sentence imposed.

7. If such plea of guilty is entered, and not withdrawn, and Defendant BRIAN J. STUCKE acts in accordance with all other terms of this Agreement, the United States Attorney for the Southern District of Ohio agrees not to file additional charges against Defendant BRIAN J. STUCKE based on the activities charged in the Information or based on other acts in the Southern District of Ohio occurring prior to the date of the Information and as to which defendant gives testimony or makes statements pursuant to this Agreement.

8. The United States Attorney for the Southern District of Ohio agrees that if Defendant BRIAN J. STUCKE provides substantial assistance in the investigation or prosecution of others who have committed criminal offenses, the United States Attorney may move the Court pursuant to §5K1.1 of the United States Sentencing Guidelines and/or Rule 35 of the Federal Rules of Criminal Procedure for an appropriate departure from the otherwise applicable guideline range for defendant's sentence and will, in connection therewith, make known to the Court the nature and extent of defendant's assistance. Defendant understands that whether such motion should be made lies within the discretion of the United States Attorney and that whether and to what extent such motion should be granted are solely matters for determination by the Court.

9. Defendant BRIAN J. STUCKE understands that this Agreement does not protect him from prosecution for perjury, should he testify untruthfully, or for making false statements, nor does it protect him from prosecution for other crimes or offenses as to which he does not make admissions or give truthful information and which the United States discovers by independent investigation. Defendant BRIAN J. STUCKE understands that the Court intends to question him on the record about the offense to which he will plead guilty pursuant to this Agreement, which questioning may be under oath and therefore could provide a basis for a later prosecution of defendant for perjury or for false statements.

10. Should the Defendant BRIAN J. STUCKE fail to comply fully with the terms and conditions set forth herein or should he fail to appear as required for sentencing, this Agreement is voidable at the election of the government, in which case Defendant BRIAN J. STUCKE shall be subject to prosecution as if the agreement had never been made.

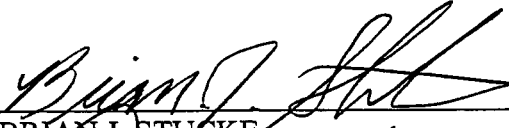
11. It is agreed if the Court refuses to accept any provision of this Agreement, neither party is bound by any of its provisions, Defendant BRIAN J. STUCKE may withdraw his guilty plea, and the United States Attorney for the Southern District of Ohio may seek leave to dismiss the Information without prejudice and may seek identical and additional charges. Defendant BRIAN J. STUCKE will not object to such dismissal or filing of further charges.

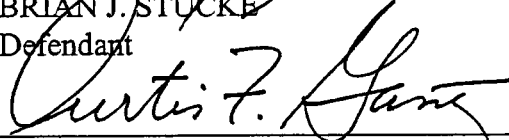
12. Defendant BRIAN J. STUCKE understands and accepts that in addition to any criminal sanctions, defendant may be subject to other civil and/or administrative consequences, including, but not limited to, a prohibition against ownership or possession of firearms, loss or denial of any professional licenses, injunctive relief or monetary penalties.

13. The Parties acknowledge that this Agreement results from prior discussions

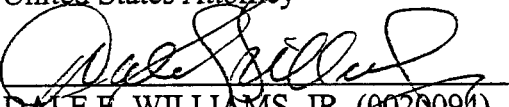
between the attorneys for the government and the defendant's attorney, that all promises, agreements, and conditions relative to this matter have been expressly set forth herein, and that no additional promises, agreements, or conditions will be made unless in writing and signed by all parties.


12/2/03
Dated _____


BRIAN J. STUCKE
Defendant


CURTIS F. GANTZ (0022215)
Attorney for Defendant

GREGORY G. LOCKHART
United States Attorney


DALE E. WILLIAMS, JR. (0020094)
Assistant United States Attorney


DOUGLAS W. SQUIRES (0073524)
Assistant United States Attorney